

Department of Veterans Affairs

§ 36.4205

to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(e) The maximum permissible loan terms shall not exceed;

(1) 20 years and 32 days in the case of a loan to purchase a single-wide manufactured home or a single-wide manufactured home and lot;

(2) 15 years and 32 days in the case of a loan to purchase a lot on which to place a manufactured home already owned by the veteran;

(3) 23 years and 32 days in the case of a loan to purchase a double-wide manufactured home, or 25 years and 32 days in the case of a loan to purchase a double-wide manufactured home and lot; or

(4) In the case of a used manufactured home the maximum term set forth in paragraph (c)(1) or (3) of this section or the remaining physical life expectancy of the unit as established by the Secretary, whichever is less.

(Authority: 38 U.S.C. 3712(a)(1) and (2), (d)(1), (e)(4)(B))

(f) An itemized list of all items included in the manufactured home loan as enumerated in § 36.4232 shall be provided to both the purchaser and the Secretary. At the time of loan origination an independent fee inspection shall be conducted to assure that all items included in the loan amount are accounted for and in place. A similar inspection will be conducted in the event of repossession immediately prior to repossession. The costs of the fee inspections may be included in the loan amount or the claim amount and charged to the borrower pursuant to the provisions of § 36.4232 (a) and (b).

(The information collection requirements contained in § 36.4204(f) were approved by the Office of Management and Budget under OMB control number 2900-0516)

(g) The cost of the transaction which cannot be paid from the proceeds of the loan must be paid by the veteran in cash from the veteran's own resources. Except for interest rate reduction refinancing loans pursuant to paragraph (a)(7) of this section or loans to refinance a manufactured home and to buy

a lot pursuant to paragraph (a)(8) of this section, closing costs and prepaid items incident to the real estate portion of any manufactured home loan must be paid in cash and may not be included in the loan amount.

(Authority: 38 U.S.C. 3712 (a)(4), (a)(5), (g))

[48 FR 40227, Sept. 6, 1983, as amended at 54 FR 34988, Aug. 23, 1989; 58 FR 37858, July 14, 1993]

§ 36.4205 Computation of guaranty.

(a) The amount of guaranty in respect to a loan guaranteed under 38 U.S.C. 3712 shall be forty (40) percent of the original principal amount of the loan or \$20,000, whichever is less. With respect to a loan guaranteed under 38 U.S.C. 3712(a)(1)(F), the dollar amount of guaranty may not exceed the original dollar amount of guaranty on the loan being refinanced. With respect to a loan guaranteed under 38 U.S.C. 3712(a)(1)(G), the dollar amount of guaranty previously used to obtain a manufactured unit loan may be transferred pursuant to § 36.4224(b) for use in refinancing the unit when simultaneously acquiring a lot.

(b) Subject to the provisions of paragraph (c) of § 36.4203, the following formulas will determine the amount of guaranty entitlement which remains available to an eligible veteran after prior use of entitlement:

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from \$36,000. The sum remaining is the amount of available entitlement for use not to exceed \$20,000 for manufactured home purposes.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from \$36,000. The sum remaining is the amount of available entitlement for use not to exceed \$20,000 for manufactured home purposes.

(3) If a veteran previously secured a manufactured home loan, the amount of entitlement used for manufactured home purposes is subtracted from \$36,000. The sum remaining is the amount of available entitlement for

use for home loan purposes only. To determine the amount of additional entitlement available for manufactured home purposes, the amount of entitlement previously used for manufactured home purposes is subtracted from \$20,000. Except for manufactured home loans to be obtained pursuant to 38 U.S.C. 3712(a)(1)(F) or (G), the sum remaining is the amount of available entitlement for use for manufactured home purposes.

(c) For the purpose of computing the remaining guaranty benefit to which a veteran is entitled, manufactured home and manufactured home lot loans guaranteed prior to October 1, 1978, shall be taken into consideration as if made subsequent thereto, and the veteran's entitlement will be reduced by the amount of the Secretary's guaranty issued in the particular loan transaction.

(d) A guaranty is reduced or increased pro rata with any deduction or increase in the amount of the guaranteed indebtedness, but in no event will the amount payable on a guaranty exceed the amount of the original guaranty or the percentage of the indebtedness corresponding to that of the original guaranty.

(e) The amount of any guaranty for a manufactured home or manufactured home lot loan shall be charged against the original or remainder of the borrower's guaranty benefit available for manufactured home purposes. Complete or partial liquidation, by payment or otherwise, of the veteran's guaranteed indebtedness does not increase the remainder of the guaranty benefit, if any, otherwise available to the veteran. When the maximum guaranty available legally to a veteran for manufactured home purposes shall have been granted, no further guaranty for manufactured home purposes shall be available to the veteran.

(f)(1) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such

surviving spouse, issued by the Secretary, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity.

(Authority: 38 U.S.C. 3701(a)(2), 3712(c)(4))

(2) For the purpose of obtaining an interest rate reduction refinancing loan pursuant to 38 U.S.C. 3712(a)(1)(F), an unmarried surviving spouse who was a co-obligor under an existing Department of Veterans Affairs guaranteed loan shall be considered to be eligible for the 38 U.S.C. 3712(a)(1)(F) benefit.

(Authority: 38 U.S.C. 3712(a)(4)(C))

(g) Any evidence of guaranty issued by the Secretary in respect to such loan shall be conclusive evidence of the eligibility of the loan for guaranty and of the amount of such guaranty, *Provided, however,* That the Secretary may establish against the original lender, defenses based on fraud or material misrepresentation and that the Secretary may by regulations in force at the date of such issuance establish partial defenses to the amount payable on the guaranty.

[44 FR 22724, Apr. 17, 1979, as amended at 46 FR 43669, Aug. 31, 1981; 48 FR 40228, Sept. 6, 1983; 58 FR 37859, July 14, 1993]

§ 36.4206 Underwriting standards, occupancy, and non-discrimination requirements.

(a) Except for refinancing loans pursuant to 38 U.S.C. 3712(a)(1)(F), no loan shall be guaranteed unless the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined by use of the standards in § 36.4337 of this part.

(Authority: 38 U.S.C. 3712)

(b) Use of the standards in § 36.4337 of this part for underwriting manufactured home loans will be waived only in extraordinary circumstances.

(Authority: 38 U.S.C. 3712)

(c) The lender responsibilities contained in § 36.4337 of this part and the certification required and penalties to be assessed under § 36.4337A of this part